

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS

LUFKIN DIVISION

TEODOCIO CARRERA

§

VS.

§

CIVIL ACTION NO. 9:13cv57

UNITED STATES OF AMERICA

§

ORDER ADOPTING THE MAGISTRATE  
JUDGE'S REPORT AND RECOMMENDATION

Movant Teodocio Carrera, a federal prisoner, proceeding *pro se*, brought this motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255.

The court referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends the above-styled petition be dismissed as barred by limitations.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record and pleadings. No objections to the Report and Recommendation were filed by the parties.

The court agrees that movant's motion to vacate, set aside or correct sentence is barred by the applicable one-year statute of limitations. Alternatively, the court finds that movant's motion to vacate was waived pursuant to the written plea agreement entered in the underlying criminal case. While movant reserved the right to file an appeal in limited circumstances, movant did not reserve the right to make a collateral attack on his conviction. Movant specifically agreed not to contest the conviction, sentence, fine and/or order of restitution or forfeiture in any post-conviction proceeding, including, but not limited to a proceeding under 28 U.S.C. § 2255.

O R D E R

Accordingly, the findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the Magistrate Judge's recommendations.

So **ORDERED** and **SIGNED** this **8** day of **November, 2013**.

A handwritten signature in cursive script, appearing to read "Ron Clark", written in black ink.

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Ron Clark, United States District Judge